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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/144,635	08/31/1998	DALE L. BARTHOLOMEW	50107-397	5034

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EXAMINER

PIZARRO, RICARDO M

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/144,635

Applicant(s)

BARTHOLOMEW ET AL.

Examiner

Ricardo M. Pizarro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 August 1998.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 48 is/are allowed.
- 6) ☒ Claim(s) 1-13, 17-29, 33, 46 is/are rejected.
- 7) ☒ Claim(s) 14-16, 30-32, 34-45 and 47 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: In page 3 line 10, the term “ plant” appears to refer to “plan”. Appropriate correction is required.

### ***Claim Objections***

2. Claim 47 is objected to because of the following informalities: In line 4 “ local ink “ appears to refer to “ local link”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 6, claim 18 line 6 “the request” has no antecedent basis. The same is true with “said request” in claim 13 lines 1-2; “said connection” in claim 15 lines 1-2; “ said portion of said line card’ in claim 19 lines 1-2; “ said line card” in claim 19 line 3, claim 25 lines 2-3; “the particular communication service” in claim 36 lines 4-5; “ the cross-point switch” in claim 37 lines 18-19.

In claim 27 lines 8-10 “ solid state switching said signal to digital signal processing and a wide band” is not understood and not clear what the term is referring to.

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In claim 37 lines 19-20 “ the one line unit switches signals through from the link” is not understood and not clear what the term is referring to.

In claim 40 line 4 “ are hard wire connected” ” is not understood and not clear what the term is referring to. Is applicant referring to “ are hard wired connected”?

In claim 41 line 4 “ local links connected to such line units” is not understood and not clear what the term is referring to.

In claim 43 lines 2-3 “create a hard wire connection” is not understood and not clear what the term is referring to.

Claims 2-12, 14-17, 20-24, 29-36, 38-49, 42, 44-45 are rejected by virtue of their dependency.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

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published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 5-7, 10-13, 17-18, 20, 22-27, 33, 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Czerwiec.

Czerwiec ( U.S. patent no. 6,314,102 ) discloses a telecommunication system for providing both narrowband and broadband services to subscribers, comprising: requesting from a CP terminal ( element 76 in Fig. 2) via a local link to a line unit and telephone switch, a communication path to a destination, detecting that a request does not seek/ seeks conversion in a line unit ( ADSL-LT card, detecting broadband or narrowband request, col 4 lines 37-50), connecting said terminal through a portion of said line unit around a converter to a wideband data switch connected to a data network ( connecting thru ADSL-LT card ( Fig. 10) to ATM switch ( element 48 in Fig. 2, col 11 lines 13-20), as in claims 1, 18 and 27; said switching system is connected to a DSP ( front-end DSP chip element in Fig. 10, col 35-43), as in claims 7, 24; said DSP is associated with said line unit( front-end DSP chip element in Fig. 10, col 35-43), as in claims 10, 25; said DSP is associated with said wideband switch( the ATM function of the front-end DSP chip element in Fig. 10, col 35-43), as in claims 11, 26; said DSP is integrated with said line unit ( front-end DSP chip element in Fig. 10, col 35-43), as in claim 12; said request is made by emitting from said terminal a signal of a predetermined characteristic and detecting is made by a detecting device associated with the line unit, as in claim 13, claim 19; said line unit comprises a line card ( LT card of Fig. 10), as in claim 17 ; said switching system provides hard wired switching ( thru the DSP processor), as in claims 5, 22; said switching system provides hard wired switching

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between said terminal and said wideband data switch ( hard wire switching obtained thru the from -end DSP element in Fig. 10), as in claims 6, 23; receiving a signal via a local link from a CP ( 76 in Fig. 2) in a network connected via a local link to a program controlled switch in said network ( col 11 lines 42-46), making a determination regarding a pre-established characteristic of said signal and responsive to said determination switching said signal to digital signal processing and a wideband edge device ( broadband/narrowband detection, col 4 lines 37-50), as in claim 27;said signal processing is performed in a processor separate from said edge device( DSP front-end element in LT card in Fig 10), as in claim 33; a switch for connection to a local link ( element 34 in Fig. 2, col 10 lines 54-66) , the switch comprising a first port for narrowband communication ( first port for connection to POTS)and a second port for connection to a broadband data network ( second port for connection to ATM), means for detecting a request for a broadband device and in response controlling the switch to connect the local link to the second port ( col 11 lines 13-20), as in claim 46.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 2-4, 8- 9, 19, 21, 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czerwiec in view of admitted prior art AT&T (Lucent) System description 235-100-125 September, 1995.

Czerwiec did not specifically disclose said portion of said line comprising a concentrator of said line unit, as in claims 2, 19; said converter comprising a CODEC, as in claim 3; ; said concentrator includes a switching system, as in claims 4, 21; said switching system comprising GDX cross point switching, as in claim 8 ;said switching system comprising cross point switching, as in claims 9, 28; said cross-point switching is performed in a line unit in said network, as in claim 29.

AT&T (Lucent) System description 235-100-125 September 1995 discloses: said portion of said line comprises a concentrator of said line unit ( the space division line concentrator in page 1), as in claims 2, 19;said converter comprises a CODEC ( the coder- decoder element under BORSCHT functions in page 1), as in claim 3; said concentrator includes a switching system ( the solid state switching grids, second paragraph in page 2) , as in claims 4, 21; said switching system comprises GDX cross point switching (solid state GDX switching grids, second paragraph in page 2), as in claim 8 ;said switching system comprises cross point switching ( GDX crosspoints, paragraph 9 ,page 2), as in claims 9, 28; said cross-point switching is performed in a line unit in said network( GDX crosspoints, paragraph 9 ,page 2), as in claim 29;

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the line unit elements as disclosed in the AT&T system description with the motivation of obtaining a telecommunication system in which plain old telephone service and a broadband digital service are simultaneously provided to

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individual subscribers on conventional transmission lines.

***Allowable Subject Matter***

9. Claim 48 is allowed.
10. Claims 37-45 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
11. Claims 14-16, 30-32, 34-36 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this office action and to include all of the limitations of the base claim and any intervening claims.
12. Claim 47 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. See also claim objection under 37 C.F. R. 1.75

***Conclusion***

13. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")



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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (703) 305-1121. The examiner can normally be reached on Monday-Thursday from 9:00 AM to 5:00 PM. The fax number for this Group is (703) 872-9314.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Douglas Olms**, can be reached on (703) 305-4703.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

August 17, 2002

*Ricardo M. Pizarro*



DOUGLAS OLMS  
SUPERVISORY PATENT EXAMINER  
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